

Amendment(s) to the Drawings

The attached new sheet of drawings includes new FIGS. 1E and 1F.

Attachment: New drawing sheet containing FIGS. 1E and 1F (1 page).

REMARKS

Claims 1-34 were pending, of which claims 2, 3, 5, 9, 10, 12-14, 19, 28-31 are withdrawn, claims 22 and 34 are canceled, and claims 1, 4, 6-8, 11, 15-18, 20, 21, 23-27, 32, and 33 stand rejected. Claims 1 and 23 are amended by way of this amendment to clarify the subject matter of the invention. All pending claims, as amended, are believed to be allowable over the references cited by the Examiner as discussed below. Accordingly, a Notice of Allowance for the present application is respectfully requested.

Drawings

The drawings are objected to by the Examiner. Claims 22 and 34 relating to a tissue marking mechanism are canceled. FIGS. 1E and 1F are added to show the tissue collector as specified in claims 21 and 33. The specification is amended at paragraph [0013] to include description of new FIGS. 1E and 1F. Support for the tissue collector can be found, for example in paragraphs [0043] and [0050]. No new matter is believed to be added. Withdrawal of the objection to the drawings is respectfully requested.

Rejections Under 35 U.S.C. §102(b)

Claims 1, 4, 6-8, 15-18, 20 and 21 stand rejected under 35 U.S.C. §102(b) as being anticipated by Burbank.

Independent claim 1 generally recites a tissue cutting device having a probe, a cutting loop, and a cutting loop securing mechanism. Claim 1 is amended to clarify that when in the cutting configuration, the cutting loop generally defines a cutting configuration plane and that the probe axis is non-parallel to the cutting configuration plane.

In contrast, Burbank's cutting element 20 is disposed longitudinally parallel to the probe axis. A distal end of the cutting element 20 is anchored to the shaft 18 while a proximal end of the cutting element 20 is moved distally or proximally to radially expand or contract the cutting element 20, respectively. (Col. 5, lines 53-62). Thus, regardless of the extent to which the cutting element 20 is extended, the plane defined by Burbank's cutting element 20 is always parallel to the probe axis. Thus Burbank fails to disclose or suggest that the probe axis is non-parallel to the cutting configuration plane as defined by the cutting element when in the cutting configuration.

In view of the foregoing, withdrawal of the rejection of independent claim 1 as well as claims 4, 6-8, 15-18, 20 and 21 dependent therefrom under 35 U.S.C. §102(b) is respectfully requested.

Claims 23, 24, 32, and 33 stand rejected under 35 U.S.C. §102(b) as being anticipated by Dulebohn.

However, as amended, independent claim 23 generally recites that while the cutting loop of the tissue cutting device is released from a penetrating to a cutting configuration, the cutting loop is soft tissue.

In contrast, Dulebohn describes a surgical snare used for the removal of polyps. In particular, the snare is expanded *in the air* (not in soft tissue), looped around the polyp, and retracted to cinch around the neck of the polyp, thereby severing the neck of the polyp and removes the polyp with the snare holding the severed neck of the polyp. Dulebohn does not disclose or suggest expanding the snare in soft tissue.

Withdrawal of the rejection of independent claim 23 as well as claims 24, 32, and 33 dependent therefrom under 35 U.S.C. §102(b) is respectfully requested.

Rejections Under 35 U.S.C. §103

Claim 11 stands rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, §103(a) as obvious over Burbank. However, dependent claim 11 is are believed to be allowable at least because independent claim 1 from which it depend is allowable as discussed above.

Claims 25-27 stand rejected under 35 U.S.C. §103(a) as obvious over Dulebohn in view of Burbank. However, dependent claims 25-27 are believed to be allowable at least because independent claim 23 from which they depend is allowable as discussed above.

In view of the foregoing, withdrawal of the rejection of dependent claims 11 and 25-27 under 35 U.S.C. §103(a) is respectfully requested.

CONCLUSION

Applicants believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a

telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

In the unlikely event that the transmittal letter accompanying this document is separated from this document and the Patent Office determines that an Extension of Time under 37 CFR 1.136 and/or any other relief is required, Applicant hereby petitions for any required relief including Extensions of Time and/or any other relief and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. **50-1217** (Order No. **MNOAP006**).

Respectfully submitted,



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